



03-CV-00634-PRAE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SALVADOR RIVERA,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General of the United States; et al.,

Respondent.

CASE NO. C03-634 TSZ

TRANSFER ORDER

On March 11, 2003, Petitioner filed a Petition for Habeas Corpus, pursuant to 28 U.S.C. § 2241, to challenge a February 7, 2001, order removing Petitioner from the United States. Docket no. 1, Ex. 2 (Order of Removal). This Court denied the petition on April 18, 2003, and Petitioner appealed. Docket nos. 18, 20. On October 18, 2004, the Ninth Circuit Court of Appeals entered a mandate reversing and remanding this Court's dismissal of the petition.

On May 11, 2005, the REAL ID Act of 2005 was signed into law. This Act states that, "[i]f an alien's case, brought under section 2241 of title 28, United States Code, and challenging a final administrative order of removal. . . is pending in a district court on the date of the enactment of this division, then the district court shall transfer the case. . . to the court of appeals for the circuit in which a petition for review could have been properly

1 filed under section 242(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1252)."
2 Pub. L. No. 109-13, Div. B., § 106(c), 119 Stat. 231, 311 (May 11, 2005). On April 11,
3 2005, Petitioner brought a motion for summary judgment, which is currently pending
4 before this Court. Docket no. 25.

5 On June 8, 2005 this Court issued an order directing the parties to show cause why
6 this case should not be transferred to the Ninth Circuit for lack of subject matter
7 jurisdiction under the REAL ID Act. Minute Order, docket no. 32. The parties have
8 responded. Respondents argue that the case should be transferred to the Ninth Circuit,
9 docket no. 33. Petitioner does not object to a transfer and moves the Court to transfer this
10 case to the same Ninth Circuit Panel that heard and decided the earlier appeal, docket no.
11 34.
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13 Because this case is filed under 28 U.S.C. 2241, is a challenge to a final order of
14 removal, and was pending at the time the REAL ID Act was enacted, the Court
15 TRANSFERS this action to the Ninth Circuit Court of Appeals as a "Petition for
16 Review." Because this Court no longer has subject matter jurisdiction, the Court
17 STRIKES Petitioner's motion, docket no. 34, to transfer this case to the same Ninth
18 Circuit panel that decided the earlier appeal. The Clerk is directed to transmit the entire
19 case file to the Ninth Circuit Court of Appeals simultaneously with this Order.
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23 Dated this 19th day of July, 2005.

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26 Thomas S. Zilly
27 United States District Judge
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